

year; a new tax on medical device manufacturers, which will raise \$2 billion per year.

Other taxes kick in 1 year from now. These include an increased penalty on withdrawals from Health Savings Accounts and a new \$2,500 cap on FLEX spending accounts.

These new limits and penalties make no sense to me. Why would we want to impose a penalty on Americans who use money from their FLEX spending accounts to buy over-the-counter medicine? How is that going to help make health care more affordable?

But that is not all the bill does with respect to taxes. In 2013, the bill imposes several more taxes, including a reduction in the tax deductibility of medical expenses, a new high cost insurance excise Tax—the so-called Cadillac tax, and an increase in the Medicare payroll tax for high earners.

These tax increases total \$73 billion before 2014, before anyone gets a dollar of subsidy to purchase health insurance in the new exchanges.

These taxes will be paid right away by Americans in the form of higher health insurance premiums. This is not just my opinion; this is what the Congressional Budget concludes too. Here is what the CBO said about the \$6.7 billion annual fee on health insurance providers, which is scheduled to begin next year:

We expect a very large portion of [the] proposed insurance industry fee to be borne by purchasers of insurance in the form of higher premiums.

It is not just taxes on insurance that will be passed on to consumers. Taxes on pharmaceutical manufacturers and medical devices makers will also be passed on.

This means that American consumers will see price increases for everything from insulin pumps, to pacemakers, to power wheelchairs and drugs like Prilosec.

As the CBO Director has said:

Those fees would increase costs for the affected firms, which would be passed on to purchasers and would ultimately raise insurance premiums by a corresponding amount.

The Joint Committee on Taxation shares the CBO's view these tax hikes will be passed along to consumers.

Once again, I do not see how imposing these new taxes now—before the exchanges are set up and the chief benefits of the bill are supposed to become available—makes health care more affordable.

For all of these reasons, I will be voting in favor of the Hutchison-Thune motion to recommit, and I would urge my colleagues to do the same.

MOTION TO COMMIT

Mr. SANDERS. Madam President, I now move to table Senator HUTCHISON's motion to commit, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—56

| | | |
|-----------|------------|-------------|
| Akaka | Gillibrand | Murray |
| Baucus | Hagan | Nelson (FL) |
| Begich | Harkin | Pryor |
| Bennet | Inouye | Reed |
| Bingaman | Johnson | Reid |
| Boxer | Kaufman | Rockefeller |
| Brown | Kirk | Sanders |
| Burr | Klobuchar | Schumer |
| Cantwell | Kohl | Shaheen |
| Cardin | Landrieu | Specter |
| Carper | Lautenberg | Stabenow |
| Casey | Leahy | Tester |
| Conrad | Levin | Udall (CO) |
| Dodd | Lieberman | Udall (NM) |
| Dorgan | Lincoln | Warner |
| Durbin | McCaskill | Webb |
| Feingold | Menendez | Whitehouse |
| Feinstein | Merkley | Wyden |
| Franken | Mikulski | |

NAYS—41

| | | |
|-----------|-----------|-------------|
| Alexander | Crapo | McCain |
| Barrasso | DeMint | McConnell |
| Bayh | Ensign | Murkowski |
| Bennett | Enzi | Nelson (NE) |
| Bond | Graham | Risch |
| Brownback | Grassley | Roberts |
| Bunning | Gregg | Sessions |
| Burr | Hatch | Shelby |
| Chambliss | Hutchison | Snowe |
| Coburn | Isakson | Thune |
| Cochran | Johanns | Vitter |
| Collins | Kyl | Voinovich |
| Corker | LeMieux | Wicker |
| Cornyn | Lugar | |

NOT VOTING—3

| | | |
|------|--------|-------|
| Byrd | Inhofe | Kerry |
|------|--------|-------|

The motion was agreed to.

Mr. REID. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

• Mr. KERRY. Madam President, I was necessarily absent for the vote on the motion to table the Hutchison motion to commit to the health care bill, H.R. 3590. If I were able to attend today's session, I would have voted to table the Hutchison motion to commit. •

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010

Mr. REID. Madam President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 3326, the Department of Defense Appropriations Act.

The PRESIDING OFFICER. The Chair lays before the Senate the message from the House.

H.R. 3326

Resolved, That the House agree to the amendment of the Senate to the bill (H.R.

3326) entitled "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes", with a House amendment to Senate Amendment.

CLOTURE MOTION

Mr. REID. Madam President, I move to concur in the House amendment, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 3326, the Department of Defense Appropriations Act for Fiscal Year 2010.

Daniel K. Inouye, Harry Reid, Max Baucus, Patrick J. Leahy, Sheldon Whitehouse, Carl Levin, Patty Murray, Mark Begich, Maria Cantwell, Mark L. Pryor, Jack Reed, Edward E. Kaufman, Al Franken, Tom Harkin, Jim Webb, Paul G. Kirk, Jr., Michael F. Bennet.

AMENDMENT NO. 3248

Mr. REID. Madam President, I move to concur in the House amendment with an amendment, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. REID) moves to concur in the House amendment to the Senate amendment with an amendment numbered 3248.

Mr. REID. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the House amendment, insert the following:

The provisions of this Act shall become effective 5 days after enactment.

Mr. REID. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3252 TO AMENDMENT NO. 3248

Mr. REID. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The Senator from Nevada (Mr. REID) proposes an amendment numbered 3252 to amendment No. 3248.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike "5 days" and insert "1 day".

MOTION TO REFER/AMENDMENT NO. 3249

Mr. REID. Madam President, I have a motion to refer, with instructions, at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows: